

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 443 Child Passenger Safety
SPONSOR(S): Economic Expansion & Infrastructure Council, Altman & others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2048

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	<u>8 Y, 0 N</u>	<u>Owen</u>	<u>Miller</u>
2) <u>Economic Expansion & Infrastructure Council</u>	<u>14 Y, 0 N, As CS</u>	<u>Owen</u>	<u>Tinker</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill revises child restraint requirements for children passengers in motor vehicles. Motor vehicle operators will be required to use child restraint devices for children aged through seven years of age, instead of the current four years of age. Under the bill's provisions, a safety belt alone is no longer sufficient protection for any child aged four through seven years. In addition, the bill specifies that certain child safety seats are appropriate restraint devices for children aged through four years, and certain child booster seats are appropriate restraint devices for children aged four through seven years.

An infraction is considered a moving violation punishable by a fine of \$60 plus court costs and add-ons, and by assessment of three points against the driver's license. The court must dismiss a first violation if the operator produces proof of purchase of a federally approved child restraint device. The revised provisions take effect January 1, 2009. Beginning July 1, 2008, law enforcement officers may issue verbal warnings and educational literature to those persons who are in compliance with existing law, but who are violating the provisions of the child restraint law, which take effect in 2009.

The bill provides exceptions to the child restraint law for persons transporting a child aged four through seven years and who are:

- Visiting the state
- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or
- Acting generally as a Good Samaritan.

The bill may generate an indeterminate amount of additional fine revenues for state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Reduce Government: The bill increases government regulation in that it requires motorists carrying child passengers to use a child restraint device in cases where no such requirement is found in existing law.

Expand Individual Freedom: The bill does not increase opportunities for individuals or families to make personal choices, in that it renders unlawful certain activity that was previously lawful, and subjects individuals who violate the provisions to monetary sanctions.

Empower Families: The bill requires motorists to use a child restraint device to transport certain children where it is not currently required in law. This reduces the power of the family to choose how to transport its children.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Current statutes require operators of motor vehicles to provide “a crash-tested, federally approved child restraint device” for children they are transporting who are under the age of 5. For children under the age of 3 the device must be “a separate carrier or a vehicle manufacturer’s integrated child seat”. For children aged 4 through 5, “a separate carrier, an integrated child seat, or a seat belt may be used”.¹ These requirements apply to motor vehicles operated on the roadways, streets, and highways of this state. They do not apply to a school bus; a bus used to transport persons for compensation; a farm tractor; a truck of net weight of more than 5,000 pounds; or a motorcycle, moped or bicycle.²

The current law is subject to primary enforcement and a violation is considered a moving violation, punishable by a \$60 fine and 3 points assessed against the operator’s license. However, according to s. 316.613(5), F.S., with the court’s approval, a person may elect to participate in a child restraint safety program. Upon completion of the program, the fine and points are waived.

It is also stated that it is legislative intent that all state, county and local law enforcement agencies, and safety councils, conduct a continuing safety and public awareness campaign as to the magnitude of the problem with child death and injury from unrestrained occupancy in motor vehicles.

A study, published in a 2003 issue of the *Journal of the American Medical Association (JAMA)*, was conducted to assess the relative effectiveness of belt-positioning booster seats compared with seat belts alone in reducing risk of injury to children 4 to 7 years of age. The study found that the odds of injury were 59% lower for children aged 4 to 7 years in belt-positioning boosters than in seat belts. Children in belt-positioning booster seats had no injuries to the abdomen, neck/spine/back, or lower extremities, while children in seat belts alone had injuries to all body regions. The AMA concluded that state child restraint laws should be revised to include the use of booster seats for children through age 7.³

¹ s. 316.613(1)(a), F.S.

² s. 316.613(2)(a-e), F.S.

³ Dennis R. Durbin, MD, “Belt-Positioning Booster Seats and Reduction in Risk of Injury Among Children in Vehicle Crashes”, *JAMA* (June 4, 2003): 2835-2840.

In “Car Safety Seats: A Guide for Families 2007”, the American Academy of Pediatrics (AAP) outlines their recommendations for child restraint use. They recommend an infant ride in a rear-facing seat until the child has reached at least one year of age *and* weighs at least 20 pounds. A rear-facing seat can be an infant-only seat or a convertible safety seat. Convertible seats can be used rear-facing for infants and then turned forward-facing once the child reaches the proper weight and age to do so safely.

The AAP recommends a child who is at least one year of age and weighs at least 20 pounds ride in a forward-facing safety seat. There are many types of forward-facing seats, including: convertible seats, built-in seats, and combination forward-facing/booster seats. A child should use a forward-facing safety seat until the child weighs up to 40 to 65 pounds (depending on the model).

Once the child reaches the height or weight limit for the forward-facing seat, the AAP recommends the use of a booster seat. Booster seats are designed to raise the child so that the lap and shoulder seat belt fit properly. The AAP recommends use of a booster seat until the adult seat belt fits the child correctly. This is usually when the child reaches about 4’9” (the height at which the National Highway Traffic Safety Administration (NHTSA) recognizes it is safe for a child to use the adult lap and shoulder restraints) and is between 8 and 12 years of age. A properly fitting seat belt means: the shoulder belt lies across the middle of the chest and shoulder, not the neck or throat; the lap belt is low and snug across the upper thighs, not the stomach; and the child is tall enough to sit against the vehicle seat back with his or her legs bent.

As of June 7, 2006, 37 States and the District of Columbia have enacted provisions in their child restraint laws mandating booster seat or other appropriate restraint use by children who have outgrown their forward-facing child safety seats, but who are still too small to use an adult safety belt system correctly. (*see table below*)

Alabama	Arkansas	California	Colorado	Connecticut	Wash, D.C.
Delaware	Georgia	Hawaii	Idaho	Iowa	Illinois
Indiana	Kansas	Louisiana	Maine	Maryland	Montana
Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York
North Carolina	North Dakota	Oklahoma	Oregon	Pennsylvania	Rhode Island
South Carolina	Tennessee	Vermont	Virginia	Washington	West Virginia
Wisconsin	Wyoming				

Since 1993, the Department, through its *Saferiders* program, has provided more than 15,000 child safety seats to needy Floridians throughout the state. Recently, more than 2,200 additional seats were provided through *The \$2 Difference* program. Floridians can make a donation of \$2 each time they register a vehicle or renew their registration at their local tax collector’s office. The program provides safety seats for children in the county in which the donation is given. The purchase, distribution and training for the installation of the seats are coordinated through the Florida Highway Patrol. There are also two child safety seat manufacturers and one non-profit safety agency that offer child safety seats at greatly reduced prices.

Proposed Changes:

The bill amends s. 316.613, F.S., requiring an operator of a motor vehicle who is transporting a child who is seven years of age or younger to provide for the protection of the child by properly using a crash-tested, federally approved child restraint device. The bill specifies the device must be appropriate for the height and weight of the child, and provides that such devices may include:

- A vehicle manufacturer’s integrated child seat;
- A separate child safety seat; or

- A child booster seat that displays the child's weight and height specifications for the seat on the attached manufacturer's label as required by the Federal Motor Vehicle Safety Standards FMVSS213.

Any such device must comply with the standards of the United States Department of Transportation and be secured in the vehicle in accordance with instructions of the manufacturer. Children through three years of age must be transported in an integrated or separate child safety seat. Children aged four through seven years must be transported in a booster seat. Under the provisions of this bill, motorists will no longer be permitted to transport children aged four through seven years with only a safety belt used as protection.

An infraction of these provisions is a moving violation, punishable by a fine of \$60 plus court costs and add-ons, and by an assessment of three points against the driver's license. The provisions of the bill do not apply to a person who is transporting a child aged four through seven years if the person is:

- Visiting in this state;
- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or
- Acting generally as a Good Samaritan.

Courts are required to dismiss the charge against a driver for a first violation of the child restraint law upon proof of purchase of a federally approved child restraint device.

The new child restraint requirements as provided in this bill will not take effect until January 1, 2009. However, the bill authorizes law enforcement personnel to issue a warning and distribute educational literature to a person who is in compliance with current law, but whose actions violate the provisions of this bill, beginning July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.613, F.S., by revising requirements for children five years of age and younger; providing requirements for children six and seven years of age; and providing exceptions to penalties.

Section 2. Provides a grace period for implementation of the new child restraint requirements.

Section 3. Provides exceptions to the child restraint provisions for certain persons transporting children ages four through seven.

Section 4. Provides an effective date of July 1, 2007, except as otherwise expressly provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department, the bill may generate additional fine revenues for state and local governments, the amount of which is indeterminate.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the Department, the bill may generate additional fine revenues for state and local governments, the amount of which is indeterminate.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motor vehicle operators must use a separate carrier, an integrated child seat or a child booster seat to transport children within the age requirements. Seat belts alone will no longer be legal restraints for children ages 6 and 7. This change will fiscally impact motorists in the amount it costs to acquire necessary restraint devices. Child safety restraints range widely in price from models offered by non-profit agencies for low-income families that cost around \$20 to customized high-back harness boosters that approach \$350. However, the majority of child safety restraints generally cost from \$50 to \$120. Because the number of additional children who will need specific restraint devices is unknown, the amount of this impact cannot be determined. Violation of the law would be punishable by a fine of at least \$60 and a 3 point assessment on the operator's driver's license.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Statement by the Department:

Section 3 of this proposed legislation provides this act does not apply to a person who is transporting a child aged four through seven if the person is visiting this state, transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child, or is acting generally as a Good Samaritan. It should be noted the aforementioned exceptions only exempt a driver from using a separate carrier, an integrated child seat, or a child booster seat. It is suggested this proposed legislation also state children aged four through seven should at least be protected by a regular seat belt if said driver does not have a separate carrier, an integrated child seat, or a child booster seat.

Past Legislation:

In 2001 SB 1412, "Child Restraint Requirements", which is similar to HB 443, passed both chambers of the Legislature, but was vetoed by Governor Jeb Bush. In his veto message, Governor Bush cited enforceability, unintended consequences (such as a mandate on low-income families and shifting

responsibility away from automobile manufacturers), how far the bill goes (at the time, the bill would place Florida far beyond other states in the level of requirements), and the appropriate role of state government (a “government-imposed regulatory solution at the outset rather than as a last resort”, “we must place some trust in parents and recognize that almost every parent in our state, more so than government, wants their child to lead healthy, safe lives”) as his concerns with the legislation and reasons for the veto.

Other Comments:

Advocates of the legislation argue that seatbelts designed to accommodate a large adult body frame do not fit or properly restrain a child ages 4 to 8, causing a group of injuries known as “seatbelt syndrome”. They state that poverty-level parents may be less likely to have regular contact with a pediatrician who would tell them about the danger of inadequate child safety restraints and less able to afford long-term medical care if a motor vehicle accident seriously injures their child due to lack of appropriate restraint. In the case of age appropriate vehicle occupant restraints, advocates point to the fact that the state does not allow adults to choose for themselves.⁴

D. STATEMENT OF THE SPONSOR

Motor vehicle accidents are the leading cause of death, and one of the leading causes of injury, hospitalization and disability in Florida children. Research has conclusively shown that many of the deaths and injuries are preventable with age appropriate restraints, but Florida law lags behind 38 other states and only requires children 3 and under to have age appropriate restraints.

Medical research has shown that 4 to 7 year old children in booster seats are 59% less likely to be injured than children in seat belts alone. Research has also shown that 4 to 7 year old children in seatbelts alone are 4 to 5 times more likely to have head injuries, 3 times more likely to sustain abdominal injuries and 28% more likely to die than 4 to 7 year olds in booster seats. Studies show that restraint habits do not dramatically change until state laws change and that parents look to state law for appropriate standards.

Further, in a cost-outcome analysis, researchers concluded that if you include all of the costs of mandating booster seat usage, booster seat laws offer a return on investment for society of 8.6 to 1 due to injuries averted. No research has been published which refutes these findings.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 19, 2007, this bill was considered by the Committee on Infrastructure. An amendment was adopted which specifies that children under the age of 8 who are over 4 feet 9 inches in height may use an adult seat belt as their restraint device. A second amendment was adopted which allows children under the age of 12 to ride in the front seat of a motor vehicle if they are over 65 inches in height. The bill was reported favorably with two amendments.

On April 5, 2007, this bill was considered by the Economic Expansion and Infrastructure Council. A strike-all amendment was adopted which:

- Required use of a child restraint device for children through seven years of age;
- Specified that certain child restraint devices are appropriate for children aged through four years and children four to seven years;
- Directed the court to dismiss the charge against a first offender if that person provides proof of purchase of a federally approved child restraint device;
- Provided for a grace period; and
- Provided exceptions to the child restraint provisions for certain persons transporting children ages four through seven.

The bill was reported favorably with one strike-all amendment as a Council substitute.

⁴ <http://www.jlflspac.org/page5.html>